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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,612	10/29/2003	John Anthony Karageorge	JAK MEASURING	6334

7590 04/21/2005
JOHN A. KARAGEORGE
14137 SEA CAPTAIN RD.
OCEAN CITY, MD 21842

EXAMINER

FULTON, CHRISTOPHER W

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.	Applicant(s)	
10/695,612	KARAGEORGE, JOHN ANTHONY	
Examiner	Art Unit	
Christopher W. Fulton	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: In the specification at page 1 the reference to the parent application needs to be updated to the current status of the application.

The amendment to the specification is non-compliant. The format for making amendments to the specification follows:

37 CFR 1.121. Manner of making amendments in application.

(a) Amendments in applications, other than reissue applications. Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

(b) Specification. Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section.

(1) Amendment to delete, replace, or add a paragraph. Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:

(i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;

(ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;

(iii) The full text of any added paragraphs without any underlining; and;

(iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueki in view of Engel.

Ueki substantially discloses a measuring system as claimed by modifying an existing scale (US standard scale or Japanese linear system) to conform to another type of scale (metric). Specifically, for the US standard scale the US foot is modified to equal 30 metric centimeters which conforms the US scale to the metric scale to bring the scales into alignment, but lacks the US foot being a base 10 system and modifying both the US standard system and the metric system to a new third system. Engel teaches using a base 10 US standard system along with various old and well known fractions. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a base 10 system for the modified US system in Ueki to better conform the modified US standard system to the Metric system as taught by Engel to better conform the modified US system to the metric system since the metric system is a base 10 system. It also would have been obvious to one of ordinary skill in the art at the time the invention was made to extrapolate the teachings of the combination of Ueki and Engel to modify both the US standard system and metric system (as well as the Japanese standard system) to another scale to conform all the well known scales for uniform use and conversion.

4. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueki in view of Engel as applied to claims 1-15 above, and further in view of Fressola.

The system as claimed is disclosed by the combination of Ueki and Engel together as stated in the rejection recited above for claims 1-15, but lacks the conversion with respect to the speed of light measuring system. Fressola teaches the standard relationship between the speed of light and the standard scales. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

to expand the teachings of the combination of Ueki and Engel to include the speed of light system as taught by Fressola as another old and well known measuring system.

Response to Arguments

5. Applicant's arguments filed January 28, 2005 have been fully considered but they are not persuasive. The arguments concerning the Ueki in view of Engel rejection 1(A-F) are not persuasive.

In response to applicant's arguments against the references individually (arguments 1(A-C) reference Ueki alone and arguments 1(D-F) reference Engel alone), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With regard to argument 1(A), the Ueki reference does teach modifying more than just the US foot, specifically the inch, $\frac{1}{2}$ inch, $\frac{1}{4}$ inch, $\frac{1}{8}$ inch, and $\frac{1}{16}$ inch marks are also modified as shown in figure 2.

With regard to argument 1(C), the determination of whether an application is better or worse is not a determining factor in obviousness rejections only if the invention as claimed is an obvious modification of an existing reference based on the teaching or another reference to one of ordinary skill in the art at the time the invention was made.

With regard to the argument 1(D), the Engel reference is not used to anticipate the claimed invention, but as a teaching reference to teach a base ten system which is one of the scales shown in the figures.

With regard to the arguments 2(A) and 2(F), the combination of references is not intended to infer the modification of astronomical measuring systems but the well known relationship between the various distance measuring systems.

With regard to the arguments 2(B-E) the accuracy of a patent is not a determining factor or consideration with regard properness of the rejection. However, with regard to the first discrepancy, the Fressola reference uses 3.259 light years while applicants references uses 3.26 light years which (without doing an exhaustive search) appears to be a rounding the distance by applicants references.

With regard to the arguments 2(G) through the classic argument section 8, these arguments are non persuasive secondary considerations which do not provide enough persuasion to make the claims patentable over the rejections as presented.

Conclusion


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-Th 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton
Primary Examiner
Art Unit 2859

CWF



Replacement Sheet
Examiner: C. W. Fulton

Title: JAK Measuring System and Method of Use
Applicant: John Anthony Karageorge
Serial Number: 10/695,612

APPROVED
4-18-05
CLF

Fig. 1

Conventional --Prior Art-- Inches, foot, centimeters

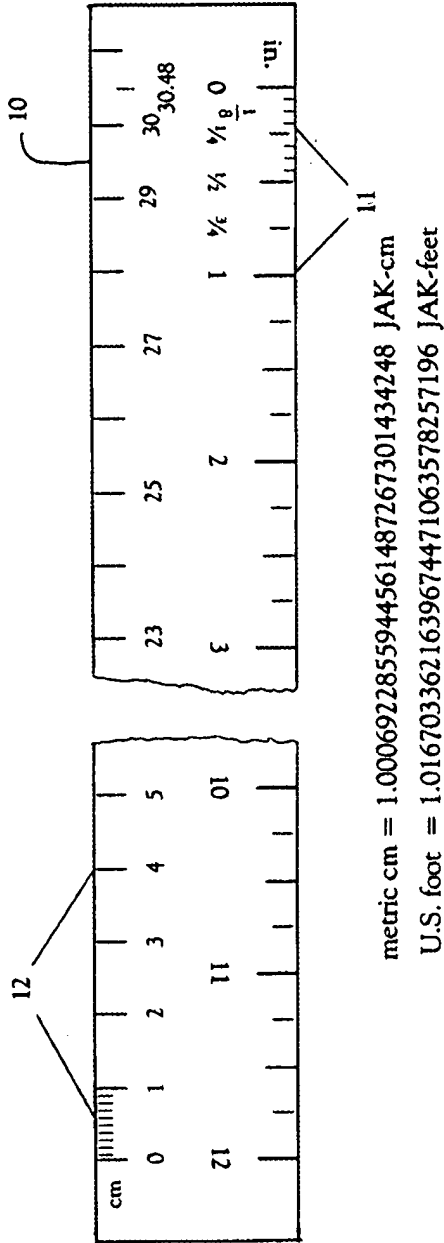


Fig. 2

"JAK" Inches, foot, centimeters

